

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:15-cv-00165-MR-DLH**

DAVID B. CROSSLEY,

Plaintiff,

vs.

UNITED STATES POSTAL SERVICE,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's Second Motion to Dismiss [Doc. 14] and the Magistrate Judge's Memorandum and Recommendation [Doc. 18] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the motion to dismiss and to submit a recommendation for its disposition.

On March 30, 2016, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the Defendant's motion. [Doc. 18]. The parties were advised that any objections to the Magistrate Judge's Memorandum

and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that the motion to dismiss pursuant to Rule 12(b)(6) should be denied, but that this Court should dismiss the remaining claim in this case *sua sponte* because said claim is moot.

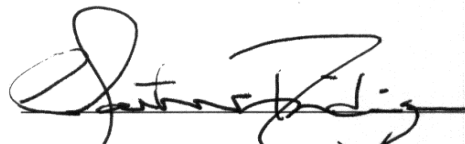
ORDER

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 18] is **ACCEPTED**, and the Defendant's Second Motion to Dismiss [Doc. 14] pursuant to Rule 12(b)(6) is **DENIED**.

IT IS FURTHER ORDERED *sua sponte* that the remaining claim in this case is hereby **DISMISSED** as moot. The Clerk of Court is directed to close this civil action.

Signed: April 22, 2016

IT IS SO ORDERED.


Martin Reidinger
United States District Judge

